

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Petitioner,	)	
	)	
v.	)	MISC. ACTION NO. 4:11-mc-0033
	)	Judge Schneider/Judge Mazzant
TIMOTHY J. PETTINGER,	)	
	)	
Respondent.	)	

## REPORT AND RECOMMENDATION REGARDING COMPLIANCE WITH IRS SUMMONS

On August 30, 2011, the Court conducted a show cause hearing regarding the Petition to Enforce Internal Revenue Summons. At the hearing, counsel for the United States appeared, along with a representative from the Internal Revenue Service. The record shows that Respondent Timothy J. Pettinger was served with the order setting the hearing, but he did not appear at the hearing as directed. Having reviewed the record, the Court finds as follows:

1. The summons was properly issued by the Petitioner United States to the Respondent TIMOTHY J. PETTINGER for the lawful purpose of securing information related to the collection of his tax liability for the taxable period ended: June 30, 2003. The Respondent failed to produce the items sought in the summons.
2. The summons was reasonably certain about the items requested and was not overly broad.
3. The items sought in the summons are relevant and material to lawful purposes.

4. No Justice Department referral as defined in 26 U.S.C. § 7602(d)(2)(A) is in effect for the Respondent.

5. The Respondent was properly notified of the date of the hearing to show cause by the duly authorized IRS representative.

6. The Court finds that Respondent should fully comply with the summons issued to him so that the IRS can complete a Collection Information Statement. Respondent is directed to appear on **Thursday, October 6, 2011, at 1:00 p.m. at the offices of the Internal Revenue Service, 4050 Alpha Road, Eighth Floor, Farmers Branch, Texas 75244**, to meet with IRS Revenue Officer James Ashton or his designated agent, to comply with the summons, and to produce the records and testimony described in the summons.

#### **CONCLUSION AND RECOMMENDATION**

The Court therefore recommends that Respondent TIMOTHY J. PETTINGER fully comply with the summons issued to him and appear at the offices of the Internal Revenue Service as set forth above.

Within 14 days after service of the Magistrate Judge's report, any party may serve and file written objections to the findings and recommendations of the Magistrate Judge. 28 U.S.C.A. §636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen (14) days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest

injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriquez v. Bowen*, 857 F. 2d 275, 276-277 (5<sup>th</sup> Cir. 1988).

**SIGNED this 31st day of August, 2011.**

  
AMOS L. MAZZANT  
UNITED STATES MAGISTRATE JUDGE